

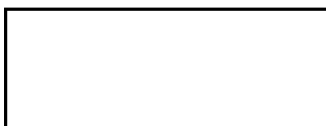
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OLC 77-5629/1  
11 January 1978

FOIA

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MEMORANDUM FOR:



OGC

25X1

FROM:

Deputy Legislative Counsel

SUBJECT:

Congressional Documents/FOIA

REFERENCES:

Memorandum to OLC, from [redacted]

25X1

[redacted] Same Subject, dated  
20 December 1977;

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Memorandum to [redacted]

from [redacted] Same Subject,  
dated 21 December 1977

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1. (U) After the serenity of some leave, I have again reviewed referent subject and find that I have not mellowed and still feel that somewhere over the horizon some legal doctrine exists to assure that the transcripts are not reachable under FOIA because they do not constitute "Agency records."

2. (U) It is my understanding that today's testimony by the General Counsel of the Administrative Office of the U. S. Courts before the Murphy Subcommittee raises an interesting parallel to this goal by referring to certain sensitive documents held for the Judiciary as a convenience by, I believe, the National Archives and Records Service, but still exclusively under control of the courts. Also, is the case of the Pike Committee documents which are in the possession of this Agency but not considered to be under our control; thus, not "our records" and certainly not subject to search by CIA in response to an FOIA request.

3. (U) I ask that you review your position in light of these facts or other considerations which these facts may suggest to you.

4. (U) As I indicated in our conversation before my leave, if the state of the law is as you state it is, then we must take some course of action; perhaps recommending legislation, perhaps alerting the Director to the fact that until this matter is resolved we are not able to possess a copy of the transcript of his testimony before the House Permanent Select Committee on Intelligence. I am not asking the impossible. You have to call the law as you see it and I do appreciate [ ] and your efforts.

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OLC [ ] (11 Jan 78)